

**Purpose:**

To explain the uniform penalties and interest assessed by the Illinois Department of Revenue

Objectives:

- To explain "processable" return
- To identify and explain each penalty, how it is calculated, and at what rate it is assessed
- To explain how the interest rate is determined
- To explain how interest is assessed

General information

On January 1, 1994, Illinois adopted the Uniform Penalty and Interest Act (UPIA), which contains uniform provisions for assessing penalties and interest. Unless otherwise specified in another tax act, the UPIA applies to all taxes we administer that are due on or after January 1, 1994, except for the taxes imposed by the following statutes:

- Racing Privilege Tax Act
- Property Tax Code
- Real Estate Transfer Tax Act
- Coin-Operated Amusement Device and Redemption Machine Tax Act
- Motor Fuel Tax Law (See Note.)

Note The Motor Fuel Tax Law contains its own late-filing, late-payment, and interest provisions applicable to Motor Fuel Use Tax. However, other penalties under UPIA may apply. See 35 ILCS 505/13a.3 for more information.

Before January 1, 1994, uniform penalty or interest provisions for the taxes that we administer did not exist; each tax act had its own penalty and interest provisions and rates. For information about penalties and interest imposed before January 1, 1994, see the various tax acts located in the Illinois Compiled Statutes.

What is amnesty and how does it affect penalties and interest?

The Illinois Tax Delinquency Amnesty Act provided an opportunity for taxpayers who failed to file tax returns or underreported taxes for tax periods ending after June 30, 1983, and before July 1, 2002, to pay those old liabilities without penalty or interest. If you paid, in full, any tax liability that qualified for amnesty, between October 1, 2003, and November 17, 2003, all penalties and interest imposed were automatically forgiven. However, if a liability qualified for amnesty remains unpaid after November 17, 2003, penalty and interest are charged at double the normal rate. The doubled rates apply to any penalties and interest that were assessed before the amnesty period, as well as to amounts assessed after the amnesty period.

For more information, see FY Bulletin 2004-11, Tax Delinquency Amnesty Act.

What is a "processable" return?

A "processable" return is one that

- has been signed by the person authorized by law to sign it,
- is in a format we have prescribed or approved, and
- contains all information, schedules, and supporting documents necessary to determine the correct tax due and make allocations.

What are the different penalties?

We assess the following penalties:

- Late-filing or nonfiling penalty
- Late-payment penalty
- Underreporting penalty
- Failure to file correct information returns penalty
- Negligence penalty
- Fraud penalty
- Personal liability penalty
- Bad check penalty
- Cost of collection fee
- Frivolous return penalty

When does each penalty apply?**Late-filing or nonfiling penalty**

You owe this penalty if

- you do not file a return by the due date, including any extended due date; or
- you file a return that is not processable and you do not correct it within 30 days of the date we notify you.

Late-payment penalty**Estimated or quarter-monthly tax payments**

You owe this penalty if you are required to make either estimated or quarter-monthly tax payments and do not do so, or do not pay the required amount by the payment due date.

Regular tax payments

You owe this penalty if you do not pay the tax you owe by the original due date of the return, even if you have an extension of time to file. If you file an amended return before the original due date (including any extension allowed under the specific tax act), this penalty will be adjusted based on the newly reported tax.

Late-payment or non-payment of additional liability

You owe this penalty if you do not pay the full amount of tax required to be shown due on a return (and that is not shown) within 30 days of the date we send you a notice of arithmetic error, a notice and demand, or a final assessment.

- If we send you a final assessment because you filed a protest and a hearing was held, the 30-day period begins after
 - ◆ all proceedings in court to review the final assessment have ended; or
 - ◆ the period for obtaining a court review of the final assessment has ended and the review proceedings were never instituted.
- If we send you a notice of tax liability that becomes a final

assessment without a protest and hearing, this penalty is imposed when the period provided for filing a protest expires.

Underreporting penalty

You owe this penalty if you fail to report the correct amount of tax required to be shown due on an original or amended return before the due date of the return (including any extension allowed under the specific tax act).

Failure to file correct information returns penalty

You owe this penalty if you do not file a correct information return by the original due date of the return.

Negligence penalty

You owe this penalty if, in preparing a return or amended return, you do not make a reasonable attempt to comply with the provisions of any tax act, including showing careless, reckless, or intentional disregard for the law or regulations.

Fraud penalty

You owe this penalty if you file a return, an amended return, or a claim with the intent to defraud.

Personal liability penalty

You owe this penalty if you have control, supervision, or are responsible for filing returns and making payment of the amount of any trust tax we administer, and willfully do not file the return or make the payment, or willfully attempt to evade or defeat the tax.

Bad check penalty

You owe this penalty if you send a remittance to the department on or after January 1, 2001, that is not honored by your financial institution.

Cost of collection fee

You owe this penalty if we send you a notice and demand, notice of additional tax due, final assessment, or a request for payment of final liability, and you do not pay the full amount of tax, penalties and interest shown on the notice within 30 days after we send you the notice. This fee applies only to liabilities related to returns due on or after July 1, 2003.

Frivolous return penalty

You owe this penalty if you file an individual income tax return that does not contain information needed to figure the correct tax or shows a substantially incorrect tax, because you are taking a frivolous position or are trying to delay or interfere with the collection of the tax.

Note This penalty is not part of the Uniform Penalty and Interest Act, and is assessed **only** on persons filing Form IL-1040, Individual Income Tax Return. For more information see the Illinois Income Tax Act (IITA), Section 1006.

How are the penalties calculated and at what rate is each penalty assessed?

Late-filing or nonfiling penalty

Returns due on or after January 1, 2001

This penalty is figured at the rate of 2 percent of the amount of tax required to be shown due on the return, after

subtracting any payments made or credits allowed by the due date of the return (excluding any extensions allowed under the specific tax act). This penalty cannot exceed \$250.

An **additional** penalty is imposed if

- you file a return that we cannot process and you do not correct it within 30 days of the date we notify you; or
- you do not file a return within 30 days of the date we send you a notice of nonfiling.

The additional penalty is equal to the greater of \$250 or 2 percent of the amount of tax shown due on the return, determined without regard to any payments made or credits allowed by the due date of the return, and cannot exceed \$5,000. **This penalty will be assessed even if there is no tax liability due.**

Returns due on or after January 1, 1996 and on or before December 31, 2000

This penalty is the lesser of \$250 or 2 percent of the tax amount required to be shown due on your return, determined without regard to any payments made or credits allowed. The additional penalty is calculated in the same manner as described in the preceding paragraph.

Returns due on or after January 1, 1994 and on or before December 31, 1995

This penalty is 5 percent of the tax amount required to be shown due on your return.

Late-payment penalty

Estimated or quarter-monthly tax payments

Returns due on or after January 1, 2004

This penalty is based on the amount of the required payment, minus any timely payments and timely credits. This penalty is figured at increasing rates based on the number of days the payment is late.

The penalty rates are

- 2 percent of any amount that is paid no later than 30 days after the due date;
- 10 percent of any amount that is paid later than 30 days but no later than 90 days after the due date;
- 15 percent of any amount that is paid later than 90 days but no later than 180 days after the due date; and
- 20 percent of any amount that is paid later than 180 days after the due date.

Returns due on or after January 1, 2001, and on or before December 31, 2003

This penalty is based on the amount of the required payment, minus any timely payments and timely credits. This penalty is figured at increasing rates based on the number of days the payment is late.

The penalty rates are

- 2 percent of any amount that is paid no later than 30 days after the due date;
- 5 percent of any amount that is paid later than 30 days but no later than 90 days after the due date;
- 10 percent of any amount that is paid later than 90 days but no later than 180 days after the due date; and
- 15 percent of any amount that is paid later than 180 days after the due date.

Returns due on or after January 1, 1998 and on or before December 31, 2000

This penalty is 20 percent of the required payment, minus any timely payments and credits.

Returns due on or after January 1, 1994 and on or before December 31, 1997

This penalty is 15 percent of the required payment, minus any timely payments and credits.

Regular tax payments**Returns due on or after January 1, 2004**

This penalty is based on the amount of tax shown due, or required to be shown due, on your return, minus any timely payments, timely credits, and the tax used in calculating the underpayment of estimated or quarter-monthly tax. This penalty is figured at increasing rates based on the number of days the payment is late.

The penalty rates are

- 2 percent of any amount that is paid no later than 30 days after the due date;
- 10 percent of any amount that is paid later than 30 days but no later than 90 days after the due date;
- 15 percent of any amount that is paid later than 90 days but no later than 180 days after the due date; and
- 20 percent of any amount that is paid later than 180 days after the due date.

Returns due on or after January 1, 2001, and on or before December 31, 2003

This penalty is based on the amount of tax shown due on your return, minus any timely payments, timely credits, and the tax used in calculating the underpayment of estimated or quarter-monthly tax. This penalty is figured at increasing rates based on the number of days the payment is late.

The penalty rates are

- 2 percent of any amount that is paid no later than 30 days after the due date;
- 5 percent of any amount that is paid later than 30 days but no later than 90 days after the due date;
- 10 percent of any amount that is paid later than 90 days but no later than 180 days after the due date; and
- 15 percent of any amount that is paid later than 180 days after the due date.

Returns due on or after January 1, 1998 and on or before December 31, 2000

This penalty is 20 percent of the amount of tax shown due on your return, minus any timely payments, timely credits, and the tax used in calculating the underpayment of estimated or quarter-monthly tax.

Returns due on or after January 1, 1994 and on or before December 31, 1997

This penalty is 15 percent of the amount of tax shown due on your return, minus any timely payments, timely credits, and the tax used in calculating the underpayment of estimated or quarter-monthly tax.

Late-payment or non-payment of additional liability**Returns due on or after January 1, 1998 and on or before December 31, 2003.**

This penalty is 20 percent of the additional tax required to be

shown due on the return if the tax is not paid within 30 days after our notice of arithmetic error, notice and demand, or final assessment.

Returns due on or after January 1, 1996 and on or before December 31, 1997

This penalty is 15 percent of the additional tax required to be shown due on the return if the tax is not paid within 30 days after our notice of arithmetic error, notice and demand, or final assessment.

Note If

- a late-payment penalty for estimated, quarter-monthly, or regular tax payments **and**

- a late-payment penalty for non-payment of additional liability are assessed for the same return,

the late-payment or non-payment of additional liability penalty is assessed only on the additional amount of tax due.

Underreporting penalty**Returns due on or after January 1, 2004**

This penalty rate is based on when the tax liability is reported, and the amount of tax reported after the due date (including any extension allowed under the specific tax act).

- If you report the full amount of tax due on an original return, or an additional tax liability on a corrected or an amended return, before the due date of the return (including any extension allowed under the specific tax act), no penalty is assessed.
- If you report the full amount of tax due on an original return, or an additional tax liability on an amended return
 - ◆ after the due date of the return (including any extension allowed under the specific tax act), but before we initiate an audit or investigation, the underreporting penalty is 5 percent.
 - ◆ after we initiate an audit or investigation, but before we issue a notice of deficiency, notice of tax liability, notice of assessment, or notice of final assessment, the underreporting penalty is 10 percent.
- If you do not report the full amount of the liability before we have issued a notice of deficiency, notice of tax liability, notice of assessment, or notice of final assessment, the underreporting penalty is 20 percent.

Failure to file correct information returns penalty**Returns due on or after January 1, 1994**

This penalty is \$5 for each return or statement you fail to timely file. This penalty may be assessed up to a total of \$25,000 during any calendar year. If you file your return within 60 days of the due date, the penalty may be reduced by 50 percent.

Negligence penalty**Returns due on or after January 1, 1994**

This penalty is 20 percent of the deficiency attributable to the negligent act.

Fraud penalty**Returns due on or after January 1, 1994**

This penalty is 50 percent of the deficiency attributable to the fraudulent act.

Personal liability penalty**Returns due on or after January 1, 1994**

This penalty is equal to the total amount of unpaid tax, penalties, and interest.

Bad check penalty

This penalty is \$25 for each remittance not honored by your financial institution that is sent to the department on or after January 1, 2001.

Cost of Collection fee

The amount of this fee is determined by the total amount of tax, penalty, and interest shown due on the notice and demand, notice of additional tax due, final assessment, or a request for payment of final liability remains unpaid 30 days after we send you the notice.

- If the total unpaid amount is less than \$1,000, the penalty amount is \$30.
- If the total unpaid amount is \$1,000 or more, the penalty amount is \$100.

Frivolous return penalty

This penalty is a flat \$500 on individual income tax returns, only, without regard to payments, credits, or other penalties that may be assessed.

How is the interest rate determined?

Interest is assessed at the same rate for each tax. The rate is reviewed twice each year – on January 1 and July 1 – and adjusted according to the “underpayment rate” or the “short-term federal rate” established under the Internal Revenue Code (IRC), Section 6621.

For interest accruing on or after **January 1, 2004**, the rate of interest payable on overpayments and underpayments is the “short-term federal rate” for the first year that the overpayment or underpayment accrues interest. This rate is established by the IRS under the IRC, Section 6621, and is 3 percent less than the “underpayment rate.” After one year, interest will accrue on any remaining balance at the “underpayment rate,” as established under IRC Section 6621.

For interest accruing on or after **January 1, 1994, and before January 1, 2004**, the rate is the “federal underpayment rate.”

To obtain the current interest rate, visit our Web site at www.ILtax.com, or contact us at the telephone numbers or addresses listed on the bottom of this page.

How is interest assessed?**Returns due on or after January 1, 2001**

Interest is calculated on the *tax* from the day after the original due date of the return through the day you pay the tax.

Interest is simple interest figured using a daily rate. You may use the following formula to figure interest due:

$$\text{tax due} \times \text{interest rate} \div 365 = \text{daily interest amount}$$

$$\text{daily interest amount} \times \text{number of days} = \text{interest due}$$

Additional interest will not accrue on tax if you pay the entire liability within 30 days of our original notice.

Returns due on or after January 1, 1996 and on or before December 31, 2000

Interest is calculated on *tax and penalty* from the day after the original due date through the date you pay the tax and penalty.

Interest is simple interest figured using a daily rate. You may use the following formula to figure interest due:

$$(\text{tax due} + \text{penalty}) \times \text{interest rate} \div 365 = \text{daily interest amount}$$

$$\text{daily interest amount} \times \text{number of days} = \text{interest due}$$

Additional interest will not accrue on tax or penalty if you pay the entire liability within 30 days of our original notice.

Returns due on or after January 1, 1994 and on or before December 31, 1995

Interest is calculated in the same manner as described in the preceding paragraph, except that the grace period is 21 days.

Questions?

If you have questions or need more information, see the Uniform Penalty and Interest Act, 35 ILCS 735/3-1 *et seq.*, visit our Web site, or call or write us. Our addresses and telephone numbers are listed at the bottom of this page.

**For information
or forms**

Call us at **1 800 732-8866** or **217 782-3336**.

Call our TDD (telecommunications device for the deaf) at **1 800 544-5304**.

Write us at Illinois Department of Revenue, P.O. Box 19044, Springfield, IL 62794-9044.

Visit our Web site at **www.ILtax.com**.

Call “Illinois Tax Fax,” our fax-on-demand service, at **217 785-3400**.

Call our 24-hour Forms Order Line at **1 800 356-6302**.



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Examples



Although these examples reference specific tax forms, they can be applied to a variety of tax types. These examples **reflect the penalties in effect for returns and liabilities due on or after January 1, 2004**, unless otherwise specified.

Late-filing or nonfiling penalty

Example 1, all tax paid by the due date:

You do not file your Form ST-1 by the April 20 due date. We send you a notice of nonfiling and ask you to respond within 30 days. You file your return 20 days after the date of our notice. The tax required to be shown due on your return is \$50,000. You paid all \$50,000 in quarter-monthly tax payments by the due dates. We *do not* assess a late-filing penalty because you paid the full \$50,000 by the due dates.

Example 1: late-filing penalty calculations

\$ 50,000.00	tax required to be shown due on the return
-12,500.00	first quarter-monthly payment (on time)
-12,500.00	second quarter-monthly payment (on time)
-12,500.00	third quarter-monthly payment (on time)
-12,500.00	fourth quarter-monthly payment (on time)
\$ 0.00	tax owed by the due date of the return
x 0.02	late-filing penalty rate
\$ 0.00	total late-filing penalty

Example 2, calculated penalty is less than \$250 maximum:

Your Form IL-1040 is due April 15, but you filed it on November 10 (after the extended due date). The tax shown due on your return is \$2,000. Your employer withheld \$1,500 for Illinois Income Tax, and you paid \$150 in estimated tax payments by the due dates. Tax owed by the return due date is \$350. We notify you that you owe a late-filing penalty of \$7 because you did not file your return by the due date.

Example 2: late-filing penalty calculations

\$ 2,000.00	tax required to be shown due on the return
- 1,500.00	withheld Illinois Income Tax
- 150.00	estimated tax payments
\$ 350.00	tax owed by due date of the return
x 0.02	late-filing penalty rate
\$ 7.00	total late-filing penalty (\$250 maximum)

The total late-filing penalty of \$7 is less than \$250; therefore, your late-filing penalty is \$7. Please note that in addition to the late-filing penalty, you also will be assessed a late-payment penalty, an underreporting penalty and interest on the late tax.

Example 3, calculated penalty is more than \$250 maximum:

Your Form IL-1120 is due March 15 but you file it on December 20 (after the extended due date). The income tax required to be shown due on your return is \$20,000 and the replacement tax required to be shown due on your return is \$12,500. You claim an Enterprise Zone Investment Credit of \$2,000 against your income tax liability. You paid \$17,000 in estimated tax payments by the due dates. Tax owed when you file your return is \$13,500. We notify you that you owe a late-filing penalty of \$250 because you did not file your return by the due date.

Example 3: late-filing penalty calculations

\$ 20,000.00	income tax required to be shown on the return
+12,500.00	replacement tax required to be shown on the return
\$ 32,500.00	net tax required to be shown due on the return
- 2,000.00	enterprise zone investment credit
-17,000.00	estimated tax payments
\$ 13,500.00	tax owed by the due date of the return
x 0.02	late-filing penalty rate
\$ 270.00	total late-filing penalty (\$250 maximum)

The total late-filing penalty of \$270 is more than \$250; therefore, you owe \$250. Please note that in addition to the late-filing penalty, you also will be assessed a late-payment penalty, an underreporting penalty, and interest on the late tax.

Examples *continued*

Example 4, nonfiled return:

You do not file your Form RPU-13 by the September 15 due date. We send you a notice of nonfiling. You file your return 45 days *after* the date of our notice. The tax required to be shown due on your return is \$200,000. You paid all \$200,000 in quarter-monthly payments by the due dates. You owe an additional late-filing penalty of \$4,000 because you did not file your return within 30 days of the date of our notice.

Example 4: additional late-filing penalty calculations

\$200,000.00	tax shown due on the return
x 0.02	additional late-filing penalty rate
\$ 4,000.00	total additional late-filing penalty
	(\$250 minimum, \$5,000 maximum)

The total additional late-filing penalty is greater than \$250 and less than \$5,000; therefore, you owe \$4,000. We *do not* assess a late-filing penalty because you paid the full \$200,000 by the due date. Therefore, only the **additional** late-filing penalty is assessed.

Example 5, return is not processable:

You filed your Form IL-941 by the April 30th due date, showing no tax due. However, you did not sign your return. Therefore, your return is incomplete and cannot be processed. We send you a notice requesting your signature, but you do not respond within 30 days. You owe an additional late-filing penalty of \$250.

Example 5: additional late-filing penalty calculations

\$ 0.00	tax shown due on the return
x 0.02	additional late-filing penalty rate
\$ 0.00	total additional late-filing penalty
	(\$250 minimum, \$5,000 maximum)

Although the calculations show no penalty is owed, the minimum additional late-filing penalty is \$250; therefore, you owe \$250. We *do not* assess a late-filing penalty because no tax was required to be shown due on the return. Therefore, only the **additional** late-filing penalty is assessed.

Late-payment penalty

Example 1, late-payment of quarter-monthly payments:

You filed your Form ST-1 by the June 20 due date. You were required to make four quarter-monthly tax payments of \$4,500 on May 7, 15, 22, and 31. You did not make any quarter-monthly payments and instead paid the total tax due when you filed your return. We notify you that you owe a late-payment penalty for not making your quarter-monthly tax payments by the due dates. Your late-payment penalty is \$1,080.

Example 1: late-payment penalty calculations

Step 1: Determine penalty for each period paid late

The late-payment penalties are based on the number of days the payments are late.

\$ 4,500.00	amount due May 7th
x 0.10	late-payment penalty rate for amount paid later than 30 days but no later than 90 days after the due date
\$ 450.00	first period late-payment penalty
\$ 4,500.00	amount due May 15th
x 0.10	late-payment penalty rate for amount paid later than 30 days but no later than 90 days after the due date
\$ 450.00	second period late-payment penalty
\$ 4,500.00	amount due May 22nd
x 0.02	late-payment penalty rate for amount paid no later than 30 days after the due date
\$ 90.00	third period late-payment penalty
\$ 4,500.00	amount due May 31st
x 0.02	late-payment penalty rate for amount paid no later than 30 days after the due date
\$ 90.00	fourth period late-payment penalty

Step 2: Add penalties for each period

\$ 450.00	first period late-payment penalty
450.00	second period late-payment penalty
90.00	third period late-payment penalty
+ 90.00	fourth period late-payment penalty
\$ 1,080.00	total late-payment penalty

Examples *continued*

Example 2, late-payment of estimated tax and late-payment of total tax due by the due date:

You filed your Form IL-1040 on May 15 (within the extension for time to file) showing total tax due of \$1,000. You were required to make quarterly estimated income tax payments but you only made your first quarter estimated payment of \$225. You paid the balance of \$775 when you filed your return.

The late-payment penalties are based on the number of days the payments are late.

Example 2: late-payment penalty calculations

Facts from example:

\$ 1,000.00 tax required to be shown due on the return
 - 225.00 first quarter estimated tax payment
 \$ 775.00 amount paid with return

Late-payment of estimated tax penalty calculation:

The penalty for late payment of estimated tax is calculated as shown below.

Step 1: Determine required quarterly payment

\$ 1,000.00 tax required to be shown due on return
 x 0.90 (90% of tax shown due on the return must be paid in four equal
 \$ 900.00 quarterly installments by the due dates)
 \$ 900.00 ÷ 4 = \$225.00 required quarterly payment

Step 2: Determine penalty for each quarter paid late

\$ 225.00 second quarter payment due June 15th
 x 0.20 late-payment penalty rate for amount paid later than 180 days
 after the due date
 \$ 45.00 second quarter late-payment penalty

\$ 225.00 third quarter payment due September 15th
 x 0.20 late-payment penalty rate for amount paid later than 180 days
 after the due date
 \$ 45.00 third quarter late-payment penalty

\$ 225.00 fourth quarter payment due January 15th
 x 0.15 late-payment penalty rate for amount paid later than 90 days but
 no later than 180 days after the due date
 \$ 33.75 fourth quarter late-payment penalty

Step 3: Add penalties for each quarter

\$ 45.00 second quarter late-payment penalty
 45.00 third quarter late-payment penalty
 + 33.75 fourth quarter late-payment penalty
 \$ 123.75 total failure to pay estimated taxes late-payment penalty

Late-payment of total tax due calculation:

The late-payment penalty for not paying the total tax due by April 15 is calculated as shown below.

Step 1: Determine amount paid late

\$ 1,000.00 tax required to be shown due on return
 - 900.00 required quarterly installments
 \$ 100.00 tax due with the return and paid late

Step 2: Determine penalty

\$ 100.00 tax due with the return and paid late
 x 0.02 late-payment penalty rate for amount paid no later than 30 days
 after the due date
 \$ 2.00 failure to pay tax by due date late-payment penalty

Total penalties for Example 2

\$ 123.75 estimated taxes late-payment penalty
 + 2.00 failure to pay tax by due date late-payment penalty
 \$ 125.75 total penalties

Examples *continued*

Example 3, late-payment of additional liability:

In 2000, you made \$12,000 in estimated tax payments properly. You filed your Form IL-1120 for tax year 2000 by the March 15, 2001 due date, showing a liability of \$10,000 and received a refund of \$2,000. In 2002, the department completes an audit of your 2000 return and determines that your actual liability was \$15,000. You agree to the audit findings and the department sends a Notice and Demand for the additional liability. You paid the additional liability 37 days *after* the Notice and Demand for payment is issued. A penalty of \$600.00 is assessed for late-payment of the additional liability.

Example 3: late-payment of additional liability penalty calculations

\$ 15,000.00	tax required to be shown due on the return
-12,000.00	timely payments
3,000.00	tax not paid when due
x 0.20	amount not paid within 30 days of notice
\$ 600.00	additional liability late-payment penalty

The penalty is based on the additional amount of tax required to be shown due on the original return, after subtracting the tax paid on time. The entire \$12,000 in estimated payments were paid on time, even though \$2,000 was refunded. Therefore, the penalty is based on the \$3,000 tax not paid when due.

Example 4, late-payment of additional liability:

You file your Form IL-1120 for the 2000 tax year on March 15, 2001, showing total tax due of \$30,000. You made all estimated tax payments properly but did not pay the \$3,000 tax balance due with the return. You pay the \$3,000 tax due on June 15, 2001, later than 90 but no later than 180 days after the due date. The late-payment penalty for tax due is \$300. In October 2001, the department completes an audit of your 2000 return and proposes increasing the tax due to \$36,000. You agree to the audit finding, and the department sends a Notice and Demand for payment of the additional liability within 30 days. You do not pay the additional liability until 45 days *after* the Notice and Demand is issued. A penalty of \$1,200 is assessed for late-payment of the additional liability.

Example 4: late-payment of additional liability penalty calculations

\$ 30,000.00	tax shown due on the return
-27,000.00	estimated tax payments
\$ 3,000.00	tax not paid when due
x 0.10	late-payment penalty rate for amount paid later than 90 but no later than 180 days after the due date
\$ 300.00	total late-payment penalty, original return
\$ 36,000.00	proposed tax due at close of audit
-30,000.00	tax paid previously
\$ 6,000.00	additional tax due
x 0.20	amount not paid within 30 days of notice
\$ 1,200.00	additional late-payment penalty

Examples *continued*

Example 5, late payment of additional tax liability and underreporting penalty:

You file your Form IL-1120-ST for the 2003 tax year on March 15, 2004, showing a total tax due of \$10,000. You paid the total tax when you filed your return. Before any audit or investigation is initiated by the Department, you file an amended return on December 2, 2004, showing additional tax due of \$5,000. You pay this liability when you file the amended return, more than 180 days after the original due date. You are assessed total penalties of \$1,250, including a 20 percent late payment penalty and a 5 percent underreporting penalty on the \$5,000 that was required to be shown due on the original return.

Example 6, late payment of additional tax liability and underreporting penalty:

You file your Form IL-1120 for the 2003 tax year on June 30, 2004, showing a total tax due of \$20,000. You pay the tax, plus applicable late payment penalties, including any penalty for the underpayment of estimated tax, and interest on July 31, 2004. On February 18, 2006, we notify you that we have received information from the IRS, that indicates you incorrectly figured your tax for the 2003 tax year, and we are beginning an audit on that tax year. On March 15, 2006, you file an amended return showing an increase in tax of \$10,000. You pay this liability when you file the amended return, more than 180 days after the original due date of the return. You are assessed total penalties of \$3,000, including a 20 percent late payment penalty, and a 10 percent underreporting penalty on the \$10,000 that was required to be shown due on the original return. Since the amended return was filed after the extended due date of the original return and after we notified you of an audit of your return, but before a notice and demand for final liability is issued, the 10 percent underreporting penalty applies.

Example 5: late-payment of additional liability and underreporting penalty calculations

Step 1: Figure your late payment penalty for additional tax liability

\$ 15,000.00	total tax shown due on amended return
- <u>10,000.00</u>	tax paid timely with original return
\$ 5,000.00	additional tax due
x <u>0.20</u>	amount paid more than 180 days after the original due date
\$ 1,000.00	late-payment penalty on additional liability

Step 2: Figure your underreporting penalty

\$ 5,000.00	additional tax amount required to be shown due on the original return
x <u>0.05</u>	amount reported on amended return after the extended due date, but before an audit or investigation is started
\$ 250.00	underreporting penalty

Step 3: Figure your total penalties

\$ 1,000.00	late payment penalty on additional liability
+ <u>250.00</u>	underreporting penalty
\$ 1,250.00	total penalties due for reporting additional liability

Example 6: late-payment of additional liability and underreporting penalty calculations

Step 1: Figure your late payment penalty for additional tax liability

\$ 30,000.00	total tax shown due on amended return
- <u>20,000.00</u>	tax previously paid with original return
\$ 10,000.00	additional tax due
x <u>0.20</u>	amount paid more than 180 days after the original due date
\$ 2,000.00	late-payment penalty on additional liability

Step 2: Figure your underreporting penalty

\$ 10,000.00	additional tax amount required to be shown due on the original return
x <u>0.10</u>	amount reported on amended return after the extended due date, and after an audit or investigation is started
\$ 1,000.00	underreporting penalty

Step 3: Figure your total penalties

\$ 2,000.00	late payment penalty on additional liability
+ <u>1,000.00</u>	underreporting penalty
\$ 3,000.00	total penalties due for reporting additional liability

Examples continued

Cost of collection fee

Example 1, Cost of collection Fee - No response to notice and demand:

We send you a notice and demand after making adjustments to your Form IL-1040 for \$1,200 in tax, penalties, and interest on November 15, 2004. You do not respond to the notice or pay the amount shown due on the notice by December 15, 2004, 30 days after the bill is issued. You are assessed a cost of collection fee of \$100 because the amount shown due on the bill and that remains unpaid after 30 days is \$1,000 or more.

Example 1: Cost of collection fee, no payment or information submitted with notice and demand

\$ 1,200.00	total tax, penalty, and interest shown due on the notice and demand
- 0.00	payment made within 30 days of the notice and demand
1,200.00	total tax, penalty, and interest remaining due
 \$ 100.00	 cost of collection fee assessed because the total unpaid amount is greater than \$1,000

In addition to the cost of collection fee, additional late payment penalties and interest will continue to accrue until the tax liability is paid in full.

Example 2, Cost of collection Fee - Partial payment made in response to the notice and demand:

We send you a notice of assessment after making adjustments to your July Form ST-1 for \$1,200 in tax, penalties, and interest on November 15, 2004. You send us a payment of \$500 on December 12, which is less than 30 days after the bill is issued, leaving an unpaid amount of \$700. You are assessed a cost of collection fee of \$30 because the amount that is unpaid after the 30 day time frame is less than \$1,000.

Example 2: Cost of collection fee, partial payment made with notice and demand

\$ 1,200.00	total tax, penalty, and interest shown due on the notice of assessment
- 500.00	payment made within 30 days of the notice of assessment
700.00	total tax, penalty, and interest remaining due after the 30 day time frame has expired
 \$ 30.00	 cost of collection fee assessed because the total unpaid amount is less than \$1,000

In addition to the cost of collection fee, additional late payment penalties and interest will continue to accrue until the tax liability is paid in full.

Example 3, Cost of collection Fee - additional information sent in response to the notice and demand.

We send you a notice and demand after making adjustments to your Form IL-1040 for \$1,200 in tax, penalties, and interest on November 15, 2004. You do not send us a payment, but you do send proof that you were entitled to a \$250 credit for property taxes you paid on your principal residence, which you failed to claim on your return. Applying the credit reduces the unpaid amount on the notice and demand to \$950. You are assessed a cost of collection fee of \$30 because the amount that is unpaid after the 30 day time frame is less than \$1,000.

Example 3: Cost of collection fee, additional information sent in with notice and demand

\$ 1,200.00	total tax, penalty, and interest shown due on the notice and demand
- 250.00	property tax credit allowed due to information submitted with the notice and demand
\$ 950.00	total tax, penalty, and interest that is unpaid after the 30 day time frame has expired
 \$ 30.00	 cost of collection fee assessed because the total unpaid amount is less than \$1,000

In addition to the cost of collection fee, additional late payment penalties and interest will continue to accrue until the tax liability is paid in full.

Examples continued

Failure to file correct information returns penalty

Your Form RL-53 is due by January 15, but you do not file it until April 1. We notify you that you owe a penalty of \$5 for failure to file a correct information return by the due date.

Negligence penalty

During an audit of your 2000 return, our auditor established an audit deficiency of \$150,000 due to negligence in reporting income. Research revealed that you were audited in 1996 and that audit documented the same findings — unreported income. At the time of the 1996 audit, the auditor made you fully aware of the proper reporting requirements. You have continued to intentionally disregard the law, resulting in the unreported income uncovered in the 2000 audit. Based on the auditor's findings and your filing history, you have been assessed a \$30,000 negligence penalty.

\$ 150,000.00	deficiency
x 0.20	penalty rate
\$ 30,000.00	total negligence penalty

Fraud penalty

An investigation of your withholding tax account revealed that you issued 1999 Form W-2 to your employees totalling \$200,000 in withheld Illinois Income Tax. You reported that you withheld \$100,000 in Illinois Income Tax when you filed Forms IL-941 and IL-W-3. Our auditor's report documented that you were fully aware of the correct application of the law but, with the intent to defraud, you did not pay the total income tax withheld to the State of Illinois. Based on the result of the investigation, the auditor's findings, and your filing history, you have been assessed a \$50,000 civil fraud penalty.

\$ 200,000.00	amount actually withheld
\$ 100,000.00	amount reported and paid
\$ 100,000.00	amount subject to penalty
x 0.50	penalty rate
\$ 50,000.00	total fraud penalty

Personal liability penalty

As the officer of a corporation, you control and supervise the filing of the corporation's Form ST-1 and ensure sales tax payments are made. You willfully failed to file your corporation's Form ST-1 for February 2001. In addition, you willfully failed to pay the required sales tax due. Your corporation's outstanding liability for delinquent tax, penalty, and interest is \$35,070.43. You may be held personally responsible and assessed a personal liability penalty of \$35,070.43, the full amount of your corporation's liability.

Bad check penalty

Your Form RHM-1 is due March 31, 2001. You file your return on April 10, 2001 and pay your total tax liability of \$8,000 with a remittance your financial institution does not honor. You are assessed a bad check penalty in addition to the late-filing and late-payment penalties. Your penalties total \$345.

Step 1: Determine each penalty

\$8,000.00	tax required to be shown due on the return
x 0.02	late-filing penalty rate
\$ 160.00	total late-filing penalty
\$8,000.00	tax due with return and paid late
x 0.02	no later than 30 days after the due date
\$ 160.00	total late-payment penalty
\$ 25.00	bad check penalty

Step 2: Add penalties

\$ 160.00	total late-filing penalty
160.00	total late-payment penalty
+ 25.00	bad check penalty
\$ 345.00	total penalties

Frivolous return penalty

Examples of when this penalty will be assessed on individuals filing Form IL-1040 include the following:

- you delete or alter the "under penalties of perjury" statement on the form;
- your filing indicates that you intentionally failed to sign the "under penalties of perjury" declaration on the form; or
- you assert, either on the form, or in a letter stating that you are not filing the required form, that
 - ◆ the Illinois or federal income tax is unconstitutional;
 - ◆ individuals are not subject to Illinois or federal income tax;
 - ◆ payment of taxes is voluntary;
 - ◆ wages, salaries, and other forms of compensation for personal services are not subject to income tax;
 - ◆ you have no income because the federal reserve notes, checks, or any other medium in which you have been paid are not "money" or are exempt from tax; or
- you take any other position that has been held by the federal courts as subject to penalty under IRC, Section 6702, or subject to sanction under the rules of the court for being frivolous.

Interest

You do not file your return by the due date. You file your return and pay the tax 60 days late. You will receive a notice showing penalties and interest with interest calculated at the semiannually adjusted daily rate on the tax due from one day after your return was due through the date you pay the tax.

Beginning January 1, 2004, your interest rate may change due to the short-term federal rate provisions.

For example, if you failed to pay all of the income tax due on March 15, 2003, that underpayment will accrue interest at the "underpayment rate" until January 1, 2004, when the new law takes effect.

From January 1, 2004, to March 15, 2004, interest will accrue at the "short-term federal rate." After March 15, 2004, the underpayment will be more than one year past due, so interest will accrue at the "underpayment rate" until the tax is paid.